

Message Text

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PAGE 01 STATE 070762
ORIGIN OPIC-06

INFO OCT-01 AF-10 ISO-00 EB-08 L-03 TRSE-00 OMB-01
CIAE-00 INR-10 NSAE-00 H-01 INT-05 /045 R

DRAFTED BY OPIC/GC:AKEESEE
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-----055023 190503Z /15
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FM SECSTATE WASHDC
TO AMEMBASSY LUSAKA PRIORITY

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E.O. 11652: N/A

TAGS: EINV

SUBJECT: OPIC INSURANCE

REF : LUSAKA 7810

1. PHELPS DODGE HAS NOT YET FILED CLAIM WITH OPIC, BUT HAS DISCUSSED PROBLEM WITH OPIC. TECHNICAL ASPECTS OF PROCESSING SUCH A CLAIM MAY BE SUBJECT FUTURE MESSAGES IF CLAIM ACTUALLY FILED.

2. PROCESSING OF SUCH A CLAIM WOULD BE ROUTINE TO THE EXTENT POSSIBLE. OPIC DOES NOT INTEND TO PUBLICIZE ANY PAYMENT OTHER THAN IN ROUTINE REPORTS WHICH ARE AVAILABLE TO PUBLIC UPON REQUEST AND IN SEMIANNUAL PRESS RELEASE WHICH LISTS ALL CLAIMS PAID IN HISTORY OF THE INSURANCE PROGRAM.

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3. PAYMENT OF INCONVERTIBILITY CLAIM WOULD NOT ESSENTIALLY CHANGE OPIC'S ATTITUDE TOWARD ZAMBIA UNLESS IT COULD BE DEMONSTRATED THAT THE GRZ HAS ACTED ARBITRARILY AGAINST PHELPS DOGE AND, THUS FAR, PHELPS DODGE HAS MADE NO SUCH ALLEGATION. PRESENT FINANCIAL DIFFICULTIES FOR GOZ ARE WELL KNOWN, AND WOULD BE TAKEN INTO CONSIDERATION IN

PROCESSING NEW APPLICATIONS. FOR INSTANCE, SINCE OPIC

STANDARD CONTRACT FOR INCONVERTIBILITY ESSENTIALLY INSURES AN INVESTOR AGAINST CHANGES IN CONDITIONS FOR REPATRIATION EXISTING ON THE DATE OPIC SIGNS THE CONTRACT, AND PRESENT CONDITIONS ARE SUCH THAT EXCESSIVELY LONG WAITING PERIODS ARE PRESENTLY EXPERIENCED BY INVESTORS FOR TRANSFER OF LOCAL CURRENCY INTO DOLLARS, OPIC MIGHT (1) DECLINE TO WRITE INCONVERTIBILITY COVERAGE, OR (2) PROVIDE IN THE CONTRACT FOR THE LENGTH OF TIME CURRENTLY EXPERIENCED. GENERALLY, IF THE WAITING PERIOD EXCEEDS ONE YEAR, AND CONDITIONS APPEAR TO BE WORSENING, OPIC WOULD DECLINE TO WRITE INCONVERTIBILITY COVERAGE.

4. AS YOU MAY KNOW, OPIC IS PRESENTLY AWAITING ITS NEW LEGISLATION. BOTH SENATE AND HOUSE HAVE PASSED BILLS, BUT DIFFERENCES MUST BE RESOLVED IN JOINT CONFERENCE, WHICH IS EXPECTED TO TAKE PLACE WITHIN NEXT WEEK OR TWO. HOUSE BILL CONTAINS AN AMENDMENT WHICH WOULD PROHIBIT OPIC FROM PROVIDING INSURANCE FOR PROJECTS WHICH WOULD INCREASE COPPER PRODUCTION. IT IS EXPECTED THAT SOME FORM OF THIS PROVISION WILL BE RETAINED IN THE FINAL BILL. IT APPEARS, THEREFORE, THAT OPIC WILL PROBABLY BE UNABLE TO ASSIST THE COPPER TAILINGS LEACH PLANT. VANCE

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